

ENTITY SELECTION EVALUATION

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The choice of entity is not an easy decision. The entity organizers must consider many federal and state taxation issues, business liability issues, operational issues and exit issues. We discuss some of these issues below. But we do not make any attempt to address all of the issues that the organizers and their advisers must consider. The entity organizers should consult with competent legal counsel in the jurisdiction where they intend to do business.

Sole Proprietor	Partnership	Limited Liability Company	C Corporation	S Corporation
<u>Description:</u> A sole individual who operates a business or trade.	<u>Description:</u> An association of two or more individuals who operates a business or trade.	<u>Description:</u> A fairly recent form of entity that is permitted in most states. It combines some of the pass thru attributes of a partnership with the limited liability of a corporation. But there is no uniform LLC Act adopted by all states.	<u>Description:</u> An entity form under the incorporation laws of a specific State. The basic characteristics of the corporate entity are (a) limited liability, (b) flexible transfer of ownership interest, (c) centralized management and (d) continuity of life.	<u>Description:</u> A small regular corporation (C Corporation) that has elected to be taxed like a partnership. S corporations are limited to 75shareholders.
<u>Taxation:</u> Net income and loss is reported on owner's 1040 on Schedule C.	<u>Taxation:</u> Net income loss is passed through to the Partners and reported on their Form 1040 on Schedule K. The partnership files a Form 1065 (this is an information return only).	<u>Taxation:</u> Same as a partnership.	<u>Taxation:</u> Net income and loss is taxed at the corporate level on Form 1120. Distribution is also taxed to the owners as dividends. This is known as double taxation.	<u>Taxation:</u> Same as a partnership. Except Form 1120S is filed and not the Form 1065.
<u>Personal Liability:</u> Sole Proprietor is liable for all the debts of the Entity.	<u>Personal Liability:</u> General Partner is Liable for debts and Limited Partner is liable to the extent of its investment.	<u>Personal Liability:</u> In Texas LLC members are not liable for the debts of the LLC. But personal liability for LLC Members varies from state to state.	<u>Personal Liability:</u> In Texas shareholders are not liable for the debts of the corporation. But professionals are liable for debts caused by their actions.	<u>Personal Liability:</u> Exactly the same as for a Regular Corporation (C Corporation).
<u>Social Security Taxation:</u> Sole Proprietor must pay the employer and employee portion of the SSET. Currently the tax is 15.3%.	<u>Social Security Taxation:</u> General Partners share of earnings are subject to the SSET. But the Limited Partner is not subject to SSET unless it performs personal services to the entity.	<u>Social Security Taxation:</u> Unless LLC Members <u>do not</u> participate in management of the LLC; LLC profits may be subject to the SSET.	<u>Social Security Taxation:</u> Shareholders who work for the corporation is employees. As employees SSET is withheld from their wages just like any other employee. The corporation pays the employer portion of the SSET.	<u>Social Security Taxation:</u> Shareholders who work for the corporation is employees as in the C Corporation. Excess profits distributed to the shareholders of S Corporations are not subject to the SSET.

ENTITY FORMATION EVALUATION FORM

STATE THE DESIRED NAME OF THE ENTITY: _____

DESCRIBE THE NATURE OR TYPE OF ACTIVITIES THIS ENTITY IS/WILL BE ENGAGED IN:

WHEN DID/WILL THIS ENTITY FIRST BEGIN BUSINESS OPERATIONS: _____

HOW LONG DOES THIS ENTITY INTEND TO DO BUSINESS: _____

WHERE IS THE PRINCIPAL OFFICES OR OPERATIONS OF THIS ENTITY:

IF ENTITY IS/WILL BE A CORPORATION: For Profit: _____ or Non-Profit: _____

IF CORPORATION:

LIST THE INITIAL BOARD OF DIRECTORS (MUST BE AT LEAST 3 PERSONS):

_____ ADDRESS: _____

_____ ADDRESS: _____

_____ ADDRESS: _____

_____ ADDRESS: _____

_____ ADDRESS: _____

_____ ADDRESS: _____

_____ ADDRESS: _____

NAME OF INCORPORATOR: _____ ADDRESS: _____

NAME OF REGISTERED AGENT FOR SERVICE: _____

ADDRESS OF REGISTERED OFFICE FOR SERVICE: _____

IF PARTNERSHIP:

LIST THE GENERAL PARTNERS (MUST BE AT LEAST TWO PERSONS):

_____ ADDRESS: _____

_____ ADDRESS: _____

_____ ADDRESS: _____

LIST THE LIMITED PARTNERS (IF ANY):

_____ ADDRESS: _____

_____ ADDRESS: _____

_____ ADDRESS: _____

_____ ADDRESS: _____

IS THIS A PROFESSIONAL PARTNERSHIP: _____ **If yes, Nature:** _____

IF LIMITED LIABILITY COMPANY:

LIST MEMBERS NAMES:

_____ ADDRESS: _____

_____ ADDRESS: _____

_____ ADDRESS: _____

_____ ADDRESS: _____

LIST MANAGERS:

_____ ADDRESS: _____

_____ ADDRESS: _____

_____ ADDRESS: _____

_____ ADDRESS: _____

WILL ITS MEMBERS RUN THIS ENTITY: _____ YES _____ NO

IF SOLE PROPRIETORSHIP:

LIST THE OWNER (NOTE: A Married Couple contributing and operating a business is a partnership in Texas):

_____ ADDRESS: _____

_____ ADDRESS: _____

SIGNED BY: _____ DATE: _____

SEND COMPLETED FORM For Evaluation and Counseling To: Facsimile No: (469) 574-7808 or Email the form to: Attorney@cjacksonlaw.com.